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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/867,181	05/29/2001	Dana Howard Jones	513612000100	6792
25224	7590	11/28/2006	EXAMINER	
MORRISON & FOERSTER, LLP 555 WEST FIFTH STREET SUITE 3500 LOS ANGELES, CA 90013-1024			POND, ROBERT M	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 11/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/867,181

**Applicant(s)**

JONES, DANA HOWARD

**Examiner**

Robert M. Pond

**Art Unit**

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,9-16,18,21-24,26-31,34 and 36-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-5, 9-16, 18, 21-24, 26-31, 34, and 36-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

The Applicant amended claims 1 and 24. Claims 2, 6-8, 17, 19, 20, 25, 32, 33, and 35 were previously canceled. All pending claims (1, 3-5, 9-16, 18, 21-24, 26-31, 34, and 36-40) were examined in this non-final office action necessitated by new grounds of rejection.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1, 3-5, 9-16, 18, 21-24, 26-31, 34, and 36-40 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

- 1. Claims 1, 3- 5, 10, 11, 14-16, 18, 23, 24, 26, 27, 30, 31, 34, 36-38, and 40 are rejected under 35 USC 103(a) as being unpatentable over Ginter (US 6,658,568) in view of Alexander (PTO-892, Item: U).**

Ginter teaches a system and method of digital rights management, creation of digital content (e.g. music, movies, software), and offering digital content in

commerce environments via the Internet (see at least Figs. 1-4; col. 1-20). Ginter further teaches:

- receiving, from a content provider, a media product that is covered by intellectual property rights protection, said media product being comprised of at least one of text data, music data, and video data; (see at least Fig. 4; col. 21-38).
- providing the media product for sale at an Internet website; digital content distributed in object container (see at least Fig. 4; col. 21-22).
- restricting general public access to said media product; general access is restricted based distribution rules (see at least Fig. 1B; Fig. 18).

Ginter teaches all the above as noted under the 103(a) rejection and further teaches a) by example usage clearinghouse 300 providing a summary report (304b) to advertisers (306) that does not reveal the consumers' identity but provides the advertisers with valuable information about the consumers' viewing habits, b) on the other hand, with the consumers' consent, usage clearinghouse (300) could provide a more detailed report revealing the consumers' identity to advertisers (306) or to other specified people, and in return, the consumers (95) could be given incentives such as, for example, discounts, cash, free movies, or other compensation (please note: the consumer gives the advertiser something of value to the advertiser and in return the consumer is given access to digital content- i.e. a movie (see col. 28, lines 36-49), and b) by example, usage

clearinghouse (300) itself producing and/or distributing advertising (340) for viewing by certain targeted consumers or delivering such advertising on behalf of others (see at least col. 64, lines 41-59), but does not disclose offering to a consumer access to the media product on the precondition that the consumer views a sponsor message. Alexander teaches web sites offering free long distance, music, and Internet access for web site users who view web site advertising (please note: advertising is authored). Alexander teaches rewarding consumers to help reach critical mass and to attract advertisers (U: see pages 2 and 3). Therefore it would have been obvious to one of ordinary skill in the art at time of invention to modify the system and method of Ginter to offer to a consumer access to the media product on the precondition that the consumer views a sponsor message as taught by Alexander, in order to achieve critical mass of consumers, and thereby attract advertisers.

Ginter and Alexander teach all the above as noted under the 103(a) rejection but do not disclose a) receiving from the consumer a request to view a sponsor message, wherein the consumer submits said request in response to being offered access to the media product, b) in response to receiving the request from the consumer, facilitating the display of a sponsor message to the consumer; and c) allowing said consumer access to said media product after said step of facilitating the display of said sponsor message. One of ordinary skill in the art would ascertain that a web site offering music as a reward for viewing an advertisement from a plurality of participating advertisers would have provide the

computing structures necessary to permit consumer-website interaction to view a selected advertisement or advertisements and subsequently provide access to the music as the reward. Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify Ginter and Alexander to facilitate consumer-website interaction as ascertained by one of ordinary skill in the art, in order to achieve critical mass of consumers, and thereby attract advertisers.

- 2. Claims 9 and 39 are rejected under 35 USC 103(a) as being unpatentable over Ginter (US 6,658,568) and Alexander (PTO-892, Item: U) as applied to claim 1 and 24, further in view of Official Notice (Paper #20051121, admitted prior art regarding within the skill, hereinafter referred to as ON2).**

Ginter and Alexander teach all the above as noted under the 103(a) rejection and further teach a) content creators, and b) consumer receiving an incentive for viewing an advertisement, but do not disclose barring the owner of intellectual property from pretending to be a consumer. The Examiner takes the position that it would have been obvious to one of ordinary skill in the art at time of the invention to disclose barring the content provider from pretending to be a consumer, since it is within the skill to ascertain that content providers are capable of abusing the system as well as consumers. Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the method of Ginter and Alexander to disclose barring the owner of intellectual property from pretending to be a consumer as taught by ON2, in order to protect

the system from abusive users, and thereby attract consumers and providers to the service.

- 3. Claims 12, 13, 21, 22, 28, and 29 are rejected under 35 USC 103(a) as being unpatentable over Ginter (US 6,658,568) and Alexander (PTO-892, Item: U) as applied to claims 1 and 24, further in view of Official Notice (regarding old and well-known in the arts hereinafter referred to as ON3).**

Ginter and Alexander teach all the above as noted under the 103(a) rejection and further teach consumers accessing digital content via secure web commerce sites, but fail to disclose issuing a password to a consumer and verifying a submitted password. The Examiner takes the position that it is old and well-known in the art for commerce web sites to issue passwords or allow the user to select a password and to verify a submitted password before granting access to all or portions a website in order to provide a level of security. Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the method of Ginter and Alexander to issue passwords and verify submitted passwords as taught by ON3, in order to provide a level of security for the service.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- US 5,991,736 (Ferguson et al.) 23 November 1999; teaches incentive systems and methods for rewarding consumers for viewing advertising messages.
- US 6,529,878 (De Rafael et al.) 04 March 2003; teaches an incentive system and method for rewarding consumers for viewing advertising messages.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Pond whose telephone number is 571-272-6760. The examiner can normally be reached on 8:30AM-5:30PM.

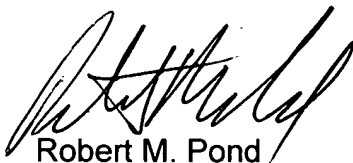
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair->



Art Unit: 3625

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A handwritten signature in black ink, appearing to read 'R. M. Pond', is written over the printed name.

Robert M. Pond  
Primary Examiner  
November 25, 2006